

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

ANDRE DAVIS,

Plaintiff,

Case No. 07-CV-11740
JUDGE DENISE PAGE HOOD
MAGISTRATE JUDGE PAUL J. KOMIVES

v.

PATRICIA CARUSO, ROBERT M. WESTWOOD,
GERALD COVERT, THERESA MERLING,
BETH GARDON, CONNIE IVES,
PEGGY LEE, SHERRY BURT,
LARRY MCMILLIAN, DEBBIE ROTH,
BETTY GLASPER, CHRISTINA PEREZ,
MICHAEL STUPAREK, DAVID KOMJATHY,
AUSBERTO ANTONINI and
CORRECTIONAL MEDICAL SERVICE,

Defendants.

ORDER ACCEPTING REPORT AND RECOMMENDATION
AND
DENYING PLAINTIFF'S SECOND MOTION FOR PRELIMINARY INJUNCTION

This matter is before the Court on Magistrate Judge Paul J. Komives' Report and Recommendation [**Docket No. 88, filed Sept. 17, 2008**]. To date, no Objections have been filed to the Report and Recommendation.

The Court has had an opportunity to review the Report and Recommendation and finds that the Magistrate Judge reached the correct conclusion for the proper reasons. The Court agrees with the Magistrate Judge that the Second Motion for Preliminary Injunction should be dismissed as the Plaintiff seeks to enjoin parties over whom this Court does not have personal jurisdiction. *See Zenith Radio Corp. v. Hazeltine Research, Inc.*, 395 U.S. 100, 110 (1969) ("The consistent

constitutional rule has been that a court has no power to adjudicate a personal claim or obligation unless it has jurisdiction over the person of the defendant.”). In particular, the Plaintiff’s seeks to enjoin individuals from the Gus Harrison Correctional Facility: Anil Prasad. M.D.; Savithri Kakani, P.S./THA; Brian Douglas, R.N., Health Unit Manager; Tammy Rothaar, R.N.; and Louis Turbett, R.N. None of these prospective defendants have ever received actual notice as required by Fed. R. Civ. P. 65, and consequently a preliminary injunction will not be binding upon them because they are not parties to this case. The Court further agrees that it need not address the propriety of an entry of a preliminary injunction, as such relief, even if granted, would not be binding.

Accordingly,

IT IS ORDERED that Magistrate Judge Komives’ Report and Recommendation [**Docket No. 88, filed Sept. 17, 2008**] is ACCEPTED and ADOPTED.

IT IS FURTHER ORDERED that Plaintiff’s Second Motion for Preliminary Injunction [**Docket No. 54, filed Feb. 26, 2008**] is DENIED.

S/Denise Page Hood
Denise Page Hood
United States District Judge

Dated: October 10, 2008

I hereby certify that a copy of the foregoing document was served upon counsel of record and Andre Davis #198028, MUSKEGON CORRECTIONAL FACILITY, 2400 S. SHERIDAN , MUSKEGON, MI 49442 on October 10, 2008, by electronic and/or ordinary mail.

S/Lisa Ware for William F. Lewis
Case Manager